

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**In re HAIN CELESTIAL HEAVY METALS
BABY FOOD LITIGATION**

This Document Relates To: All Actions

Case No.: 2:21-cv-00678-JS-AYS

**DECLARATION OF JEFFREY K.
BROWN, ESQ.**

I, Jeffrey K. Brown, submit this Declaration in support of Plaintiffs Lisa Gray and Heather Age's motion for the appointment of interim lead counsel pursuant to Your Honor's May 13, 2021 and May 18, 2021 Orders ("Consolidation Orders"), and affirms that the following is truthful and accurate:

1. I am a partner with Leeds Brown Law, P.C. ("Leeds Brown"), attorneys in the instant matter for Plaintiffs Gray and Age, and this declaration is based on my personal knowledge of the procedural facts and circumstances underlying this proceeding.

2. Pursuant to Federal Rule of Civil Procedure 23(g)(3), I submit this declaration in support of Gary F. Lynch of Carlson Lynch LLP ("Carlson Lynch") and my firm as interim Co-Lead Counsel ("CLLB Team"), along with Honorable John G. Marks (ret.) as liaison counsel¹.

¹ The CLLB Team understands that Scott + Scott, Attorneys at Law, LLP ("Scott+Scott") is filing a separate leadership application proposing Erin Green Comite as lead counsel. The CLLB Team supports that application and would welcome a leadership structure that includes Scott+Scott with the CLLB Team and any other firms it proposes. Carlson Lynch and Scott+Scott have a proven track record of working cooperatively with co-counsel, opposing counsel and the court. Both firms have worked together on numerous occasions and have demonstrated they can work cohesively and effectively with each other and other law firms in complex litigation matters such as this. *See, e.g., First Choice Federal Credit Union v. The Wendy's Co., et al.*, No. 2:16-cv-00506 (W.D. Pa.) (consolidated data breach action in which Mr. Lynch and Ms. Comite were designated co-lead counsel and secured \$50 million settlement including additional security measures).

3. The CLLB Team's proposed lean leadership structure, along with Judge Marks as liaison counsel, consists of experienced class counsel that have litigated and resolved numerous class actions across the country, as well as in state and federal courts in New York.

4. Since the issuing of the U.S. House of Representative Subcommittee Report on Feb. 4, 2021, our firm has conducted due diligence investigations and actively engaged with clients, co-counsel, and others to pursue claims on behalf of families across this country.

5. Leeds Brown, including myself, Michael A. Tompkins, and other individuals at our firm, has already spent considerable time, effort, and resources in the investigation of the claims in this case, including speaking to the Named Plaintiffs, reviewing documents related to the case, researching the law, and reviewing public materials related to the allegations of the Complaint.

6. To date, our firm has coordinated with Carlson Lynch – who our firm has been working with on several similar actions that have been filed across the country – to efficiently evaluate the claims and coordinate on filings and prosecutions in various jurisdictions including the presently consolidated action here.

7. Additionally, Judge Marks has agreed to serve as liaison counsel based on his years of experience and knowledge of the laws and courts in New York. *See* Exhibit A (resume and biography of Hon. John G. Marks (Ret.)). Judge Marks' years of experience and impressive credentials bring credibility and a strong liaison to ensure class members are well represented and protected.

8. Recently, Carlson Lynch and Leeds Brown have been appointed as interim lead counsel in several pending putative class actions, including in *Okolo v. Maryville Univ. of St. Louis*, Case No. 20SL-CC02850 (Miss. Cir. Ct., 21st Dist, Feb. 9, 2021) (appointing Leeds Brown, Carlson Lynch and one other firm as interim co-lead counsel on behalf of plaintiffs and a proposed

class of students asserting breach of contract claims), and *Felix v. Roosevelt Univ.*, Case No. 20-cv-4793 (N.D.Ill. Nov. 12, 2020) (appointing Leeds Brown as co-lead interim class counsel with Edward Ciolko of Carlson Lynch as co-counsel and liaison with the Court).

9. Carlson Lynch and Leeds Brown are jointly litigating numerous cases across the country on behalf of students who failed to receive tuition or fee refunds when classes were cancelled during March 2020. *See e.g., Goodwin v. Board of Regents of the Univ. System of Georgia*, Case No. 2020cv343057 (Ga. Sup. Ct., Fulton Cty.) (prosecuting claims on behalf of students within the University of Georgia schools, colleges, and departments); *Polley v. Northwestern Univ.*, Case No. 20-cv-04798 (N.D. Ill.) (asserting claims on behalf of students at Northwestern Univ.); *Lafleur v. State Univ. System of Florida*, Case No. 20-cv-1665 (M.D. Fla.) (asserting claims on behalf of students at 12 universities within the State of Florida University system).

10. Judge Mark's experience and credentials are impressive and invaluable to representation of the class, including his years of public service in the Marine Corps., the NYPD, and on the bench in New York – as an acting justice of the Supreme Court, Nassau County Family Court Judge, and District Judge, as well as serving as a judicial hearing officer for the Veterans Court of both Nassau and Suffolk County. Since he has retired from the bench, he has returned to private practice and has agreed to assist our clients, our firm, and the proposed leadership of the CLLB team here in the prosecution of this matter.

11. As far as my education and history, I am a graduate of SUNY Albany (B.A.) and Hofstra Law School (J.D.) and am a partner at Leeds Brown. I have been practicing as an attorney for more than 20 years and have been counsel or co-counsel for plaintiffs in numerous state and federal lawsuits including lawsuits in the Eastern and Southern Districts of New York

12. With respect to Leeds Brown’s adequacy as Class Counsel, noteworthy is that the firm has been recognized for its work as class counsel. For example, Judge Alison J. Nathan noted “[Co-counsel] and Leeds Brown Law, P.C. are experienced and well-qualified employment and class action lawyers with expertise in prosecuting and settling labor law cases. The substantial work that Plaintiffs’ counsel has performed in investigating, litigating, and reaching a settlement in this case demonstrates their commitment to the class and representing the class’ interests, as well as their general ability to conduct this litigation...As noted above, [co-counsel] and Leeds Brown Law, P.C. have extensive experience in labor law class actions and have devoted considerable time and effort to litigating and settling this action on behalf of the class.” Tart v. Lions Gate Entm’t Corp., 2015 U.S. Dist. LEXIS 139266, *7 (S.D.N.Y. Oct. 13, 2015); *see also* Contreras v. Dania Marina, Inc., Index No. 54536/2018 (N.Y. Sup. Ct., Westchester Cty. [Gretchen Walsh, J.], Oct. 3, 2019) (commending counsel when approving the class-wide settlement and approving Class Counsel’s request for fees by noting “I think everybody was vigorously represented in this action. And I commend counsel for their work as well.”); Vizcaino v. The Ritz Carlton Hotel Company, LLC, 2020 N.Y. Misc. LEXIS 2319 (N.Y. Sup. Ct., Suffolk Cty. [O’Brien, Special Master.], May 8, 2020) (approving Leeds Brown Law, P.C.’s request for fees as Class Counsel and noting that “The experience, ability, and reputation of class counsel is widely recognized.”); *see also* Cohan v. Columbia Sussex Management, LLC, 2018 U.S. Dist. LEXIS 170192 (E.D.N.Y. Sept. 28, 2018) (“Class counsel [LBL and co-counsel] are well known class action employment lawyers who have extensive experience and special expertise in prosecuting and settling FLSA and NYLL wage and hour cases.”); Varela v. Building Services Industries, LLC, Index No. 600037/2016 (N.Y. Sup. Ct. Nassau Cty. June 21, 2018) (“the Court finds that class counsel have established their significant experience prosecuting employment class

actions and their work performed in the representing the interests of the class members in this action.”); Barry v. S.E.B. Serv. of N.Y., Case No. 11-cv-5089 (JMA)(MG) (E.D.N.Y. Nov. 12, 2015) (noting that Jeffrey K. Brown, Michael A. Tompkins, and Suzanne Leeds Klein (along with co-counsel) “did substantial work identifying, investigating, and analyzing and settlement Plaintiff’s and the class members’ claims. Class Counsel have significant experience prosecuting and settling employment class actions, including wage and hour class actions. The work that Class Counsel has performed both in litigating and settlement this case demonstrates their commitment to the class and to representing the class’ interests.”); Colabufo v. CNA Financial Corp., 04-CV-1863(BMC) (S.D.N.Y. July 31, 2009) (“We’re obviously dealing with high-end lawyers in this case ... It seems like they gave their all to this. It seems like it would be an overstatement to say ‘sweat blood,’ but it sounds to me like there was a lot of sweating involved on both sides in this and the plaintiffs, no question, earned their fee in this ... You can’t argue to that unless you point to some specific infirmity in counsel’s performance and there is no suggestion of that here ... [P]laintiffs’ law firms ... appeared to have done an excellent job in this, so I don’t have any question about the adequacy of representation of the class.”); Garcia v. Exec. Club LLC, 2012 U.S. Dist. LEXIS 189823 (S.D.N.Y. May 10, 2012) (“Class Counsel [co-counsel and Leeds Brown] have experience prosecuting and settling employment class actions, including wage and hour class actions and are well-versed in wage and hour law and in class action law. The work that Class Counsel has performed both in litigating and settling this case demonstrates their commitment to the class and to representing the class’ interests.”).

13. Leeds Brown has considerable experience in recent years litigating employment-related class action lawsuits. *See e.g.* Ramlochan v. Westchester Shores Event Holdings, Inc. et al. Index No. 53509/2018 (N.Y. Sup. Ct. Westchester Cty. April 23, 2020), where the Honorable

Terry J. Ruderman grants class certification and states that Plaintiffs’ counsel “has shown its ability to manage a class action...”; Cornejo v. Eden Palace, Inc., 2020 N.Y. Misc. LEXIS 2317 (N.Y. Sup. Ct., Kings Cty., [Walker, J.], May 27, 2020) (appointing Leeds Brown Law, P.C. as Class Counsel and noting that the firm “has been appointed class counsel in numerous class actions involving wage and hour claims, including some also involving Labor Law § 196-d”); *See also*, Griffin v. Aldi, Inc., 16-cv-00354-LEK-ATB (N.D.N.Y. May 11, 2017) (granting conditional certification to a nationwide collective class across hundreds of locations before ultimately approving a class and collective settlement with Leeds Brown, Sultzer, and others as counsel to plaintiffs); Weinstein v. Jenny Craig Operations, Inc., 138 A.D.3d 546 (1st Dept. 2016) (upholding state-wide certification of employees at Jenny Craig’s branches and locations as employees were represented by Leeds Brown Law, P.C. and co-counsel); Marcus v. AXA Advisors, LLC, 11-CV-2339 (SJ)(SMG) (E.D.N.Y.) (granting nationwide conditional certification under the FLSA of over 2,000 financial service workers before ultimately approving settlement in 2015); Ruiz v. Scotto’s Smithtown Restaurant Corp., Index No. 2010/600317 (N.Y. Sup. Ct. Nassau Cty. Comm. Div, July 17, 2013) (approving class-wide settlement on behalf of 2,929 service employees at several of defendants’ catering facilities); Williams v. Air Serv Corp., 121 A.D.3d 441 (1st Dept. 2014) (affirming trial court’s certification of an Article 9 class of over 1,000 workers at John F. Kennedy International Airport); Chavarria v. Crest Hollow Country Club at Woodbury, Inc., Index No. 017464/2011 (N.Y. Sup. Ct. Nassau Cty. Comm. Div. Dec. 13, 2013) (approving class resolution with Leeds Brown Law, P.C. as counsel to the class, along with co-counsel).

14. Indeed, Leeds Brown has been certified as class counsel in matters outside the context of settlement on several cases over the past few years. *See e.g.*, Contreras v. Yonkers Racing Corp., 2020 N.Y. Misc. LEXIS 1226 (N.Y. Sup. Ct., Westchester Cty. [Charles D. Wood,

J.], March 16, 2020) (certifying a class of banquet workers and approving Leeds Brown Law, P.C. as Class Counsel); Medina v. Fairway Golf Mgmt., LLC, 2017 N.Y. Slip Op 32923(U) (N.Y. Sup. Ct. Nassau Cty., Aug. 4, 2017), aff'd by 112 N.Y.S.3d 187 (N.Y. App. 2d Dept. 2019) (certifying the class with Leeds Brown Law, P.C. as class counsel); Cornejo v. Rose Castle Corp., Index No. 500178/2016 (N.Y. Sup. Ct. Kings Cty., June 30, 2017) (same); Membrives v. HHC TRS FP Portfolio LLC, 2017 N.Y. Misc. LEXIS 5754 (N.Y. Sup. Ct. Nassau Cty., Mar. 10, 2017) (same); Maor v. Hornblower New York, LLC, 2016 N.Y. Misc. LEXIS 2111 (N.Y. Sup. Ct. N.Y. Cty., June 13, 2016) (same with co-counsel); Cataldo v. Morrell Caterers, 12-cv-1690 (JFB)(ARL) (E.D.N.Y. June 25, 2013) (granting a Rule 23 class of service employees at three permanent catering locations along with co-counsel); Kehn v Plainview Hospitality, LLC, 2014 NY Slip Op 33985[U] (Sup Ct, Nassau County 2014); Carlin v Singh Hospitality Group, Inc., 2013 N.Y. Misc. LEXIS 7176 (Sup Ct, Nassau County Dec. 20, 2013); Macaluso v Woodbury Intl., Inc., 2013 NY Slip Op 34211[U] (Sup Ct, Nassau County 2013); Lopez v. Bethpage Assoc. LLC, 2013 NY Slip Op 34219(U) (N.Y. Sup. Ct. Nassau Cty., Aug. 13, 2013) (certifying a class of service workers for unpaid service charges at numerous locations); Maor v. One Fifty Fifty Seven Corp., 2018 N.Y. Misc. LEXIS 1333 (N.Y. Sup. Ct. N.Y. Cty. April 11, 2018), aff'd in part and mod'd in part by 2019 N.Y. App. Div. LEXIS 1147 (1st Dept. 2019) (certifying the class with Leeds Brown and co-counsel as Class Counsel); Maor v. Volume Services America Inc., Index No. 158298/2014 (N.Y. Sup. Ct. N.Y. Cty., Dec. 19, 2016) (certifying a class of service workers at the Javits Center and the caterer's other New York locations before approving the class-wide settlement with Leeds Brown and Virginia & Ambinder as Class Counsel); among others.

15. Leeds Brown has obtained final approval of numerous class-wide settlements within the last few years alone. *See e.g.*, Montero v. 333 Bayville Avenue Restaurant Corp., Index

No. 603760/2017 (N.Y. Sup. Ct. Nassau Cty., May 6, 2019) (J. Steinman); Maor v. GAC Caterers, Inc., Index No. 25669/2017 (N.Y. Sup. Ct. Bronx Cty, May 6, 2019) (J. Johnson); Villasin v. GlenArbor Golf Club, LLC, Index No. 608512/2017 (N.Y. Sup. Ct. Nassau Cty., Apr. 25, 2019) (J. Jaeger); Heale v. Hickory Ridge Golf & Country Club Inc., Index No. E2017000673 (N.Y. Sup. Ct. Monroe Cty., Apr. 5, 2019) (J. Taylor); Salzman v. Coveleigh Club, Inc., Index No. 608525/2017 (N.Y. Sup. Ct. Nassau Cty., Apr. 2, 2019) (J. Brown); Villasin v. American Yacht Club, Index No. 608975/2017 (N.Y. Sup. Ct. Nassau Cty., Jan. 10, 2019) (J. Mahon); Salzmann v. Metropolis Country Club, Inc., Index No. 608527/2017 (N.Y. Sup. Ct. Nassau Cty., Jan. 7, 2019) (J. Brown); Membrives v. Platinum Affairs, Ltd., Index No. 603295/2016 (N.Y. Sup. Ct. Nassau Cty., Oct. 16, 2018) (J. Galasso); Maor v. Paramount Country Club, LLC, Index No. 032284/2016 (N.Y. Sup. Ct. Rockland Cty., Dec. 18, 2017); Pino v. DHG Management Company, LLC, Index No. 155969/2015 (N.Y. Sup. Ct. N.Y. Cty., May 31, 2017); Garcia v. Culinart, Inc., Index No. 601978/2015 (N.Y. Sup. Ct. Nassau Cty., May 24, 2017) (J. Bucaria); Pino v. DHG Management Company, LLC, Index No. 155969/2015 (N.Y. Sup. Ct. N.Y. Cty., May 3, 2017); Badolato v. Seasons of Southampton, Index No. 63132/2013 (N.Y. Sup. Ct. Suffolk Cty., March 1, 2016); Montiel v. Hamlet Golf & Country Inc., Index No. 602365/2014 (N.Y. Sup. Ct. Nassau Cty., April 22, 2016); Orgera v. Sterling Caterers & Restaurant, LLC, Index No. 603691/2014 (N.Y. Sup. Ct. Nassau Cty. Feb. 1, 2016) (J. Murphy); Orgera v. Anthony's Windows on the Lake, Inc., Index No. 2012/14669 (N.Y. Sup. Ct. Nassau Cty., April 28, 2014); Khaimov v. JEM Caterers of Roslyn, LLC, Index No. 003215/2012 (N.Y. Sup. Ct. Nassau Cty. Oct. 16, 2013) (approving settlement on behalf of several hundred workers); Ruiz v. Scotto's Smithtown Restaurant Corp., Index No. 600317/2010 (N.Y. Sup. Ct. Nassau Cty. Jul. 17, 2013); Toledo v. DCJ Catering Corp., Index No. 600994/2011 (N.Y. Sup. Ct. Nassau Cty. Dec. 21, 2012); Ackley v. Atlantis Marine

World, L.L.C., Index No. 063308/2014 (N.Y. Sup. Ct. Suffolk Cty. Jun. 23, 2016); Stange v. Bobby K. Caterers, Inc., Index No. 603826/2013 (N.Y. Sup. Ct. Nassau Cty. Oct. 19, 2015); Veselovsky v. Meadow Club Catering Inc., Index No. 10433/2013 (N.Y. Sup. Ct. Suffolk Cty. Sept. 30, 2015); Parada v. Westbury Manor Enterprises Inc., Index No. 601125/2011 (N.Y. Sup. Ct. Nassau Cty. Jun. 27, 2014); Baez v. Westchester Manor Corp., Index No. 55431/2016 (N.Y. Sup. Ct. Westchester Cty. Apr. 17, 2018); Gonzalez v. NHPI, LLC, Index No. 012654/2012 (N.Y. Sup. Ct. Nassau Cty. Sept. 30, 2014); among others.

16. For the reasons stated above, I submit that appointment of Leeds Brown Law, P.C. as co-lead counsel in this matter would be in the best interests of Plaintiffs and the Class.

17. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and accurate.

Dated: May 27, 2021
Mineola, New York

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